

SERVED: January 15, 1993

NTSB Order No. EA-3757

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 28th day of December, 1992

THOMAS C. RICHARDS,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-10230
v.)	
)	
FRANKLIN J. RENO,)	
)	
Respondent.)	
)	

ORDER DENYING RECONSIDERATION

Respondent has filed a petition for reconsideration of our decision, NTSB Order EA-3622, served July 23, 1992.¹ In that decision, we affirmed the law judge's findings that respondent had violated 14 C.F.R. 61.87(d) and 61.93(c)(2), in that he failed to ensure proper recordkeeping reflecting required endorsements by flight instructors. In this appeal, respondent argues, first, that because safety was not compromised by his omissions, and because we must find a safety and public interest nexus to sustain a certificate suspension, it was improper for us to uphold the law judge's decision. In finding that, although respondent's inaction did not do so, certain actions or inactions

¹The Administrator has replied in opposition to the petition.

could compromise safety, respondent contends that we have "created new, fictional categories of Aviation Safety without articulating any guidelines for airman compliance." Respondent next argues that the Board misconstrued the regulations in holding that respondent was required to maintain in a logbook the particular records at issue here, rather than maintaining them by way of a "reliable record." We find no merit in respondent's contentions and, therefore, deny his petition.

Respondent's claim that we have created new, unarticulated standards for compliance has no basis in our decision. The standard for compliance remains the same: pilots must maintain records as required by the Federal Aviation Regulations (FARs). And, as we explained in our decision, citing Administrator v. Sloten, 2 NTSB 2503, 2505 (1976), we have long held that proper recordkeeping is "required by the public interest and safety in air commerce and air transportation."

Respondent's second claim of error was also fully addressed in our prior decision. The regulations that were violated specified that flight instructor endorsements of student pilot solo and solo cross-country flights be included in a logbook. Whatever different procedures other rules may allow for reporting various information -- "reliable records," for example, are authorized by § 61.51 to report qualification for a particular rating -- are irrelevant. To the extent that respondent's remaining arguments challenge the logic of the FARs,

it is well settled that the Board does not have authority to pass on the reasonableness or validity of FAA regulations, but rather is limited to reviewing the Administrator's findings of fact and actions thereunder.

Administrator v. Ewing, 1 NTSB 1192, 1194 (1971). In response to respondent's argument regarding the relationship of § 61.51 to 61.87(d) and 61.93(c)(2), we would also note that a basic rule of construction is that the more specific rule controls. In this case, the latter two rules are the more specific, referring specifically to flight instructor endorsements of student pilot solo and solo cross country flights.²

²We need not resolve respondent's question as to the definition of "logbook." It is sufficient to note that respondent had a book containing other flight records. The violation here was caused by his failure to include necessary endorsements in that book.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's petition for reconsideration is denied.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above order.